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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,531	10/24/2003	Stephane Avequin	1200.659	6882

7590 04/19/2005

LINIAK BERENATO & WHITE  
SUITE 240  
6550 ROCK SPRING DRIVE  
BETHESDA, MD 20817

EXAMINER
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PATEL, NIHIR B

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/691,531	Applicant(s) AVEQUIN ET AL.	
	Examiner Nihir Patel	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on April 13<sup>th</sup>, 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
     4a) Of the above claim(s) 4-6, 10, 11 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-9 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10.24.2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on February 24<sup>th</sup>, 2000. It is noted, however, that applicant has not filed a certified copy of the application as required by 35 U.S.C. 119(b).

### *Election/Restrictions*

Applicant's election with traverse of **figures 1-6 (claims 1, 2, 3, 7, 8, 9 and 12)** in the reply filed on April 13<sup>th</sup>, 2005 is acknowledged. The traversal is on the ground(s) that figures 1-6 and figures 7-10 is overall the same shape of the walls and the location on the inlet/out tube 32 and 68. No other differences exist. This is not found persuasive because there are other differences. **Page 9 lines 5 through 8** of the applicant's specification states "Hence, in the embodiment of figures 7 to 10, the manifold plate is included in the second cover-forming part, whereas in the embodiment of figures 1 to 6 the manifold plate is included in the first part".

Claims **4, 5, 6, 10, 11 and 13** are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 13<sup>th</sup>, 2005.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1, 2, 8, 9 and 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Lesage (US 5,205,354).

**Referring to claim 1**, Lesage discloses a vehicle radiator and method of making that comprises a first part **10** (see **figure 3**) formed from a shaped metal sheet featuring only one bottom **12** (see **figure 3**) and two lateral walls **14** (see **figure 3**) folded face to face (see **figure 3**), at least one of which is provided with an aperture **18** (see **figure 3**) in order for a pipe to be fixed there (see **column 4 lines 35-40**), and a second part **26** (see **figure 3**) formed from a shaped metal able to be fitted onto the lateral walls of the first part in order to form a cover opposite the bottom **12** of the first part **10**, wherein one of the first part **10** and the second part **26** comprises the manifold plate **12**, and wherein the first part, the second part and the pipe are assembled by brazing.

**Referring to claim 2**, Lesage discloses an apparatus where in the two lateral walls **14** of the first part **10** are generally flat and parallel to each other and are connected perpendicularly to the bottom (see **figure 3**).

**Referring to claim 8**, Lesage discloses an apparatus wherein the manifold plate **12** is included in the bottom of the first part **10** and is connected to the lateral walls **14**, while the second part **26** constitutes a closed cover (see **figure 3**).

**Referring to claim 9**, Lesage discloses an apparatus wherein the two lateral walls **14** have respective face-to-face extensions, at least one of which is provided with an aperture **18** for the pipe (see **figure 3**).

**Referring to claim 12**, Lesage discloses an apparatus wherein the first part **10** and the second part **26** are each obtained from a sheet of material comprising aluminum (see column 4 lines 7-14).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim **3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lesage (US 5,205,354) in view of Stay et al. (US 4,531,578).

**Referring to claim 3**, Lesage discloses the applicant's invention as claimed with the exception of providing peripheral grooves for accommodating a longitudinal edge of the second part. Stay discloses a tank-header plate connection that does provide peripheral grooves for accommodating a longitudinal edge of the second part (see figures 3 and 4). Therefore it would have been obvious to modify Lesage's invention by providing peripheral grooves for accommodating a longitudinal edge of the second part as taught by Stay in order to tight connection between the first part and the second part.

Claim **7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Lesage (US 5,205,354) in view of Bauer et al. (US 5,178,211).

**Referring to claim 7**, Lesage discloses the applicant's invention as claimed with the exception of providing generatrices that are generally parallel to each other. Bauer discloses a heat exchanger that does provide generatrices **12** that are generally parallel to each other (see

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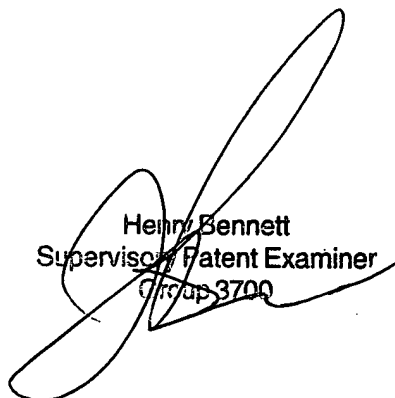
**figure 1).** Therefore it would have been obvious to modify Lesage's invention by providing generatrices that are generally parallel to each other as taught by Bauer in order to provide a tight connection between the first part and the second part.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP  
April 15<sup>th</sup>, 2005

  
Henry Bennett  
Supervisor Patent Examiner  
Group 3700